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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation/Petition to
12 Revoke Probation Against:

13 **ALAN BONSTEEL, M.D.**
14 **294 Cecilia Way**
Tiburon, CA 94920

15 **Physician's and Surgeon's Certificate No. A**
16 **50164**

17 Respondent

Case No. 800-2017-037763

DEFAULT DECISION
AND ORDER

[Gov. Code §11520]

18 PROCEDURAL BASIS OF DEFAULT

19 1. On April 6, 2018, the Medical Board of California served a copy of the
20 Accusation/Petition to Revoke Probation No. 800-2017-037763 by certified mail to Respondent's
21 address of record with the Board, which was and is 294 Cecilia Way, Tiburon, CA 94920.
22 (Exhibit Package, Exhibit 1¹ Accusation/Petition to Revoke Probation, the related documents, and
23 Declaration of Service and certified mail receipt card.)

24 2. Respondent did not submit a Notice of Defense or otherwise respond to the
25 Accusation. On April 23, 2018, an employee of the Attorney General's Office sent a courtesy
26 Notice of Default by certified mail addressed to Respondent at his address of record, advising

27 ¹ The evidence in support of this Default Decision and Order is contained in the "Exhibit
28 Package."

Respondent of the Accusation and providing Respondent with an opportunity to request relief from default. On May 11, 2018, the Attorney General's Office received the envelope returned and stamped "April 30, 2018, "Refused. Forward. Notify Sender of New Address Alan E. Bonsteel 10538 San Leandro Ave. Cupertino CA 95014-2756." On May 14, 2018, an employee of the Attorney General's Office sent by certified mail addressed to Respondent at 10538 San Leandro Ave. Cupertino CA 95014-2756, a courtesy Notice of Default, advising Respondent of the Accusation, and providing Respondent with an opportunity to request relief from default. (Exhibit Package, Exhibit 2: Courtesy Notices of Default, proofs of service, certified mail envelope stamped by U.S. Postal Service.)

FINDINGS OF FACT

I

3. Complainant Kimberly Kirchmeyer is the Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board.") The charges and allegations in Accusation No. 800-2017-037763 were at all times brought and made solely in the official capacity of the Board's Executive Director.

II

4. On November 20, 1991, the Board issued Physician's and Surgeon's Certificate No. A 50164 to Respondent. In a disciplinary action entitled "In the Matter of Accusation and Petition to Revoke Probation Against Alan Bonsteel, M.D.," Case No. 800-2015-011891, the Medical Board of California issued a decision, effective November 16, 2017, in which Respondent's Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of one year. That year of probation was ordered to commence at the conclusion of, and run consecutively to, the current five year probationary term imposed on Respondent on May 7, 2013, by the Board's prior Decision and Order in Medical Board Case No. 12-2009-200652. On March 8, 2018, an Administrative Law Judge granted Complainant's petition and issued an Interim Suspension Order prohibiting Respondent from the practice of medicine until the Board issues a final order in these proceedings. (Exhibit Package, Exhibit 3: certified copies of Decision and

1 Order in Case No. 800-2015-011891 and Case No. 12-2009-200652; Interim Suspension Order;
2 Certificate of License.)

3 III

4 6. On April 6, 2018, Respondent was served with an Accusation, alleging causes for
5 discipline against Respondent. The Accusation and accompanying documents were duly served
6 on Respondent. A Courtesy Notice of Default was thereafter served on Respondent. Respondent
7 failed to file a Notice of Defense.

8 V.

9 7. The allegations of the Accusation are true as follows:

10 On September 22, 2017, Neurological evaluator John Hixson, MD, met with Respondent to
11 update his assessment, after two prior assessments requested by the Board in 2014 and 2016.
12 Respondent told Dr. Hixson that he sees patients four days per week at Orchard Hospital, which
13 Respondent described as "near Sacramento." Respondent also stated that he works at a separate
14 clinic in Hollister, California, up to three days a week. He reported no inpatient hospital duties
15 and does not perform any procedures, although he does occasionally perform suturing and
16 gynecological examinations.

17 During the neurological assessment portion of the examination, Dr. Hixson noted that
18 Respondent was alert and oriented but he was unable to complete memory tasks. Dr. Hixson
19 concluded that Respondent's cognitive performance has declined since his last assessment, to
20 such a degree that Respondent is now a danger to himself, patients and the public. Dr. Hixson's
21 opinion is that it is unlikely that any treatment will improve Respondent's functioning enough to
22 allow him to practice medicine safely. Dr. Hixson also believes that Respondent's lack of
23 appreciation for his own deficits will impede his ability to compensate for his deficits. (Exhibit
24 Package, Exhibit 6: Declaration of Dr. Hixson.)

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1 DETERMINATION OF ISSUES

2 I

3 Pursuant to the foregoing Findings of Fact, Respondent's license is subject to action
4 pursuant to section 822 in that his ability to practice medicine safely is presently impaired by
5 physical and/or mental illness.

6 II.

7 Pursuant to the foregoing Findings of Fact, Respondent's impaired ability to safely and
8 competently practice medicine constitutes cause to revoke his certificate by application of section
9 822.

10 ORDER

11 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A 50164, heretofore
12 issued to Respondent Alan Bonsteel, M.D., is revoked.

13 Respondent shall not be deprived of making a request for relief from default as set forth in
14 Government Code section 11520, subdivision (c), for good cause shown. However, such showing
15 must be made in writing by way of a motion to vacate the default decision and directed to the
16 Medical Board of California at 2005 Evergreen Street, Suite 1200, Sacramento, CA 95815 within
17 seven (7) days after service of the Decision on Respondent.

18 This Decision shall become effective on July 20, 2018 at 5:00 p.m.

19 It is so ORDERED June 22, 2018

20 MEDICAL BOARD OF CALIFORNIA
21 DEPARTMENT OF CONSUMER AFFAIRS
22 STATE OF CALIFORNIA

23 By 
24 _____

Kimberly Kirchmeyer
Executive Director

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
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In the Matter of the Accusation and Petition
to Revoke Probation Against:

ALAN BONSTEEL, M.D.

294 Cecilia Way
Tiburon, CA 94920

Physician's and Surgeon's
Certificate No. A50164,

Respondent.

Case No. 800-2017-037763

**ACCUSATION AND PETITION
TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On November 20, 1991, the Medical Board of California issued Physician's and Surgeon's Certificate Number A50164 to Alan Bonsteel, M.D. (Respondent). In a disciplinary action entitled "In the Matter of Accusation and Petition to Revoke Probation Against Alan Bonsteel, M.D.," Case No. 800-2015-011891, the Medical Board of California issued a decision, effective November 16, 2017, in which Respondent's Physician's and Surgeon's Certificate was

1 revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's
2 Certificate was placed on probation for a period of one year. That year of probation was ordered
3 to commence at the conclusion of, and run consecutively to, the current five year probationary
4 term imposed on Respondent on June 6, 2013, by the Board's Decision and Order in Medical
5 Board Case No. 12-2009-200652. The particulars of these two disciplinary actions are set out
6 below in the section labeled "Discipline Considerations."

7 3. Based on a clinical neurological assessment described herein, on March 8, 2018, an
8 Administrative Law Judge granted Complainant's petition and issued an Interim Suspension
9 Order prohibiting Respondent from the practice of medicine until the Board issues a final order in
10 these proceedings.

11 JURISDICTION

12 4. This Accusation and Petition to Revoke Probation is brought before the Medical
13 Board of California (Board), Department of Consumer Affairs, under the authority of the
14 following laws. All section references are to the Business and Professions Code unless otherwise
15 indicated.

16 5. Section 2227 of the Code provides that a licensee who is found guilty under the
17 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
18 one year, placed on probation and required to pay the costs of probation monitoring, or such other
19 action taken in relation to discipline as the Board deems proper.

20 6. Section 822 of the Code states:

21 "If a licensing agency determines that its licentiate's ability to practice his or her
22 profession safely is impaired because the licentiate is mentally ill, or physically ill affecting
23 competency, the licensing agency may take action by any one of the following methods:

24 "(a) Revoking the licentiate's certificate or license.

25 "(b) Suspending the licentiate's right to practice.

26 "(c) Placing the licentiate on probation.

27 "(d) Taking such other action in relation to the licentiate as the licensing agency in its
28 discretion deems proper.

1 "The licensing section shall not reinstate a revoked or suspended certificate or license until
2 it has received competent evidence of the absence or control of the condition which caused its
3 action and until it is satisfied that with due regard for the public health and safety the person's
4 right to practice his or her profession may be safely reinstated."

5 7. The actions and incidents alleged herein occurred in California.

6 FIRST CAUSE FOR DISCIPLINE

7 (Physical and/or Mental Impairment)

8 8. Respondent is subject to discipline under section 822 in that good cause exists to
9 believe that Respondent's ability to practice medicine safely may be impaired by physical and/or
10 mental illness.

11 9. On July 11, 2017, the California Highway Patrol issued a Notice of Priority Re-
12 examination to Respondent after he was stopped for driving the wrong way on the freeway. The
13 officer noted that Respondent was confused and disoriented, and that he had become lost while
14 driving his regular route. The officer also noted that when he asked Respondent what year it is,
15 Respondent answered "2071."

16 10. On September 8, 2017, Respondent was scheduled to meet at 8 a.m. with Medical
17 Board Investigator Arlene Caballero for his quarterly review. Respondent began calling
18 Caballero prior to 8 a.m., to say that he was in the area and intended to arrive early so that he
19 would not be late to the interview, as he had done in the past. At around 9 a.m., Respondent
20 called Caballero to say he could not find her office, and that he was at an office in unincorporated
21 Walnut Creek. Caballero told Respondent to contact a security guard and ask for directions.
22 Respondent called several additional times to say he could not find Caballero's office. Caballero
23 called the first office from which Respondent had called, and spoke with the person who had
24 attempted to assist Respondent. After about three hours of Respondent having been lost,
25 Investigator Caballero called the Pleasant Hill Police Department and requested that they help
26 locate Respondent and check on his welfare; the officers succeeded in finding Respondent.
27 Respondent did not meet with Caballero that day as requested, nor has he met with her thereafter,
28 as requested and as required by his conditions of probation.

1 11. On September 22, 2017, Neurological evaluator John Hixson, MD, met with
2 Respondent to update his assessment, after two prior assessments requested by the Board in 2014
3 and 2016. Respondent told Dr. Hixson that he sees patients four days per week at Orchard
4 Hospital, which Respondent described as "near Sacramento." Respondent also stated that he
5 works at a separate clinic in Hollister, California, up to three days a week. He reported no
6 inpatient hospital duties and does not perform any procedures, although he does occasionally
7 perform suturing and gynecological examinations.

8 12. When asked about the July incident in which the CHP reported that Respondent had
9 been driving the wrong way on the freeway, Respondent said he had merely become lost, and the
10 CHP officer was irritated with him for asking directions. Respondent denied that he had been
11 driving the wrong way on the freeway.

12 13. During the neurological assessment portion of the examination, Dr. Hixson noted
13 that Respondent was alert and oriented but he was unable to complete memory tasks. For
14 example, when asked to repeat a story, Respondent was unable to recount the story, instead
15 confabulating parts of the story and adding details that the examiner had not stated. Dr. Hixson
16 concluded that Respondent's cognitive performance has declined since his last assessment, to
17 such a degree that "he is now a danger to himself, patients and the public. Although he may be
18 able to compensate for many of his deficits, it is more concerning to me to observe an apparent
19 and significant drop in his cognitive abilities. This is most prominent in his executive functioning
20 and memory domains, which are clearly vital (to) medical decision making."

21 14. Dr. Hixson counseled Respondent about his neurological findings and advised him
22 to seek out the care of a neurologist and to undergo tests regarding possible reversible causes of
23 dementia and possible neuro-imaging. Dr. Hixson opined that Respondent's longstanding
24 memory difficulties would be inconsistent with reversible dementia, but recommended the tests,
25 and also recommended that Respondent consider Alzheimer's disease treatment.

26 15. Dr. Hixson's opinion is that it is unlikely that any treatment will improve
27 Respondent's functioning enough to allow him to practice medicine safely. Dr. Hixson also
28

1 believes that Respondent's lack of appreciation for his own deficits will impede his ability to
2 compensate for his deficits.

3 16. As described above, Respondent's progressing cognitive impairment affects his
4 ability to practice medicine safely and therefore warrants action by the Board under section 822.

5 FIRST CAUSE TO REVOKE PROBATION

6 (Failure to Meet with Board Designee)

7 17. The allegations of paragraphs 9-16 above are incorporated herein as if set out in full.
8 At all times after the effective date of Respondent's probation, Condition 13 of the Board's
9 Decision and Order in Case No. 12-2009-200652 provides that Respondent shall be available in
10 person upon request for interviews with Board designees. Respondent's probation is subject to
11 revocation because he has failed to comply with Probation Condition 13. Condition 16 of the
12 Board's Decision and Order states that if Respondent violates probation in any respect the Board,
13 after giving Respondent notice and the opportunity to be heard, may revoke probation and carry
14 out the disciplinary order that was stayed.

15 DISCIPLINE CONSIDERATIONS

16 18. To determine the degree of discipline, if any, to be imposed on Respondent,
17 Complainant alleges that Respondent has been subject to Board discipline on two prior occasions.

18 19. Respondent stipulated in 2013 that the allegations of Accusation 12-2009-200652
19 constituted cause for discipline. That Accusation, filed December 7, 2011, alleged acts of Gross
20 Negligence, Prohibited Prescribing to an Addict, and Failure to Maintain Adequate Medical
21 Records. Pursuant to Respondent's stipulation, the Board revoked his medical license, with the
22 revocation stayed pending Respondent's successful completion of five years' probation
23 commencing June 6, 2013.

24 20. On February 21, 2017, the Board filed Accusation and Petition to Revoke Probation
25 No. 800-2015-011891 against Respondent, alleging new causes for discipline of Unprofessional
26 Conduct, Failure to Maintain Accurate Records, and Violation of Laws. By a Decision and Order
27 effective November 16, 2017, the Board revoked Respondent's medical license, but stayed the
28

1 revocation and extended his existing probation for one additional year, commencing upon
2 expiration of that previously imposed five year term of probation.

3
4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Medical Board of California issue a decision:


7 1. Revoking the probation that was granted by the Medical Board of California in Case
8 No. 12-2009-200652 and in Case No. 800-2015-011891 and imposing the disciplinary orders that
9 were stayed, thereby revoking Physician's and Surgeon's Certificate No. A 50164, issued to Alan
10 Bonsteel, M.D.;

11 2. Revoking, suspending or denying approval of Alan Bonsteel, M.D.'s authority to
12 supervise physician's assistants, pursuant to section 3527 of the Code and advanced practice
13 nurses;

14 3. Ordering Alan Bonsteel, M.D., if placed on probation, to pay the costs of probation
15 monitoring; and

16 4. Taking such other and further action as deemed necessary and proper.
17

18
19 DATED: April 6, 2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant